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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

This Document Relates to:

ALL ACTIONS

Case No. 3:23-md-03084-CRB

**DEFENDANT UBER TECHNOLOGIES,
INC., RAISER-CA, LLC, AND RAISER,
LLC'S BRIEF IN SUPPORT OF UBER'S
PRIVILEGE CLAIMS CHALLENGED BY
PLAINTIFFS FOR THE HENLEY
CUSTODIAL FILE – PURSUANT TO
SPECIAL MASTER ORDER NO. 3 (DKT.
2472)**

Pursuant to Special Master Order No. 3, I (4) (Dkt. 2472), Defendants submit this brief in support of their position on the remaining privilege challenges for custodian Mat Henley. On March 25, 2025, Plaintiffs challenged 16 documents within this custodial file. Through conferrals, the parties have narrowed their dispute to 4 challenges. These challenges are now submitted for the Special Master's review.

At issue in this set of challenges is a confidential email from a third party, along with three of its attachments. Plaintiffs challenged these documents, claiming that the involvement of the third party removes confidentiality. However, the confidential email was sent by a third party to Uber's in-house counsel. The third party's role in working at the direction of in-house counsel is evident from the face of the document and was explained in the Third Party Digest, provided to the Special Master on February 18, 2025, which Plaintiffs have not challenged. The third party is identified in the challenged documents, Defendants' privilege log, and the February 18, 2025, Third Party Digest. The presence of a third party does not waive privilege where, as here, the confidential communication is "reasonably necessary for . . . the accomplishment of the purpose for which the lawyer is consulted." *See* Cal. Evid. Code § 952; *see also* *Atmel Corp. v. St. Paul Fire & Marin Ins. Co.*, 409 F. Supp. 2d 1180, 1181 (N.D. Cal. 2005); *Anoush v. Bournayan v. Garfield Beach CVS, LLC*, 2024 WL 590666, at *2 (C.D. Cal. Jan. 9, 2024) (CVS did not waive privilege when revealing confidential information to a third-party vendor who assisted in investigating and evaluating a claim).

Defendants incorporate by reference the legal standard and arguments set forth in their prior briefing (Dkts. 2433, 2461, 2528, 2544, 2580, 2605, 2661, and 2677). As explained more fully in the prior briefs, the applicable legal standard and the factual material previously provided to the Special Master,¹ when reviewed in conjunction with the challenged documents and the associated metadata fields, support Uber's privilege and work product assertions. The remaining privilege claims submitted for the Special Master's determination should be upheld.

¹ As requested by the Special Master, Uber has provided (1) a glossary of terms commonly used in disputed documents, (2) a list of names and titles of relevant Uber inside and outside counsel, and (3) a digest of third-parties present in its privilege log. Defense counsel will also be available for any questions the Special Master may have during the review process.

DATED: April 11, 2025

Respectfully submitted,

SHOOK HARDY & BACON L.L.P.

By: /s/ Jennifer Hill

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

/s/ Jennifer Hill
Jennifer Hill